

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

LOS ALTOS UNIFIED SCHOOL  
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2012021185

ORDER DENYING STUDENT'S  
PEREMPTORY CHALLENGE

On October 16, 2012, Susan Foley, attorney for Student, filed a peremptory challenge, seeking to disqualify Administrative Law Judge (ALJ) Adeniyi Ayoade from hearing this matter. Student's peremptory challenge is made pursuant to Government Code section 11425.40, subdivision (d), of the Administrative Procedures Act (APA), and California Code of Regulations, title 1, section 1034.

Government Code section 11425.40, subdivision (d), establishes the criteria for disqualification of the presiding officer. A party is entitled to one peremptory challenge (disqualification without cause) to an ALJ assigned to an Office of Administrative Hearings hearing. (Cal. Code Regs., tit. 1, § 1034, subds. (a) & (b); Gov. Code, § 11425.40, subd. (d).) In no event will a peremptory challenge be allowed if it is made after the hearing has commenced. In addition, if at the time of a scheduled prehearing conference, an ALJ has been assigned to the Hearing, any challenge to the assigned ALJ shall be made no later than commencement of that prehearing conference. (Cal. Code Regs., tit. 1, § 1034, subd. (c).) A peremptory challenge is not allowed on reconsideration or remand, and cannot be made after a hearing has begun. (Cal. Code Regs., tit. 1, § 1034, subd. (a).)

On August 27, 2012, ALJ Ayoade initiated a prehearing conference in this matter, during which he heard and ruled upon a motion to continue the matter. Accordingly, Student's peremptory challenge is not timely and is denied.

IT IS SO ORDERED.

Dated: October 16, 2012

/s/

BOB N. VARMA  
Presiding Administrative Law Judge  
Office of Administrative Hearings